



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 04693-99
7 October 1999

SGT [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Sergeant [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested that your fitness report for 14 May 1996 to 28 February 1997 be modified by raising your marks in items 13e ("handling enlisted personnel"), 14i ("force"), 15a ("general value to the service") and 16 (desirability for service in war).

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 20 July 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the report of the PERB.

The Board noted that Marine Corps Order (MCO) P1610.7D, paragraph 3012.3 says it is inappropriate to utilize fitness report submission time as an additional counseling session. They found no requirement that the narrative of the contested fitness report include specific justification for the marks assigned, which were not adverse. They did not find any inconsistency between the marks and comments of the report at issue. Finally, concerning your contention that you should have been marked other than "not observed" in items 13b ("additional duties") and 13c ("administrative duties"), they noted that you provided nothing beyond your own assertion to prove this. In this regard, the Board noted that MCO P1610.7D, paragraph 4004.2 says item 13b is marked other than "not observed" when additional duties require the Marine to "devote prolonged periods of time" to such duties.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

4693-99

1610 IN REPLY REFER TO:
MMER/PERB
JUL 20 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
SERGEANT [REDACTED] USMC

Ref: (a) Sergeant [REDACTED]'s DD Form 149 of 6 Apr 97
(b) MCO P1610.7D w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 14 July 1999 to consider Sergeant [REDACTED]'s petition contained in reference (a). The petitioner asks that the marks in Items 13e (handling enlisted), 14i (force), 15a (general value) and 16 (desirability to have under command) be changed. Reference (b) is the performance evaluation directive governing submission of the report.
2. It is his position that he was never counseled by his Reporting Senior on the mark in Item 16 (Be Glad) until two weeks after inquiring. To support his appeal, the petitioner furnishes a letter from Staff Sergeant [REDACTED] (inference is that he may have been the petitioner's Platoon Commander).
3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. Notwithstanding the petitioner's own statement and that of Staff Sergeant [REDACTED], the Board is not persuaded or convinced that the challenged marks are either unfair or inaccurate. In this regard, the Board concluded that the petitioner has failed to meet the burden of proof necessary to establish the existence of an error or injustice.
4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Sergeant [REDACTED]'s official military record, as configured.
5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps

31 PERB